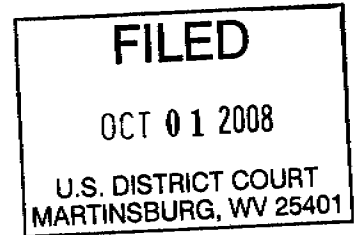


IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
MARTINSBURG



JASON TAYLOR,

Petitioner,

v.

CIVIL ACTION NO. 3:08-CV-70  
(BAILEY)

COUNTY OF DEKALB, GA,  
STATE OF GEORGIA ATTORNEY,  
GENERAL, WARDEN-FCI GILMER,

Respondents.

**ORDER ADOPTING OPINION/REPORT AND RECOMMENDATION**

On this day, the above-styled matter came before the Court for consideration of the Opinion/Report and Recommendation of United States Magistrate Judge John S. Kaull. By Standing Order this action was referred to Magistrate Judge Kaull for submission of a proposed report and a recommendation ("R & R"). Magistrate Judge Kaull filed his R & R on August 14, 2008 [Doc. 16]. In that filing, the magistrate judge recommended that this Court grant in part and deny in part the respondent's motion to dismiss and to dismiss the petitioner's § 2241 habeas corpus petition [Doc. 1].

Pursuant to 28 U.S.C. § 636 (b) (1) (c), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. ***Thomas v. Arn***, 474 U.S. 140,

150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); **Snyder v. Ridenour**, 889 F.2d 1363, 1366 (4th Cir. 1989); **United States v. Schronce**, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge Kaull's R & R were due within ten (10) days of receipt, pursuant to 28 U.S.C. § 636(b)(1) and Fed.R.Civ.P. 72(b). The docket indicates that the petitioner accepted service of the R & R on September 5, 2008. See Doc. 19. No objections have been filed. Accordingly, this Court will review the report and recommendation for clear error.

Upon careful review of the report and recommendation, it is the opinion of this Court that the magistrate judge's **Opinion/Report and Recommendation [Doc. 16]** should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated in the magistrate judge's report. As such, this Court hereby **GRANTS in part and DENIES in part** the respondent's Motion to Dismiss, or in the Alternative, Motion to Transfer **[Doc. 11]**. Specifically, this Court **ORDERS** as follows:

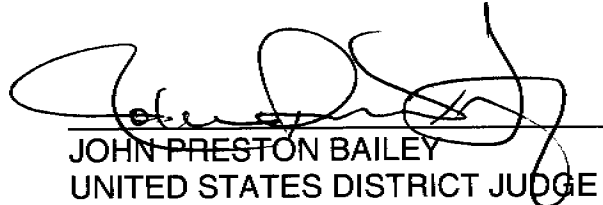
1. The respondent's Motion to Dismiss is **DENIED** as to the petitioner's request for removal of the alleged detainer which hinders his ability to participate in rehabilitative programs. Instead, those claims are **DISMISSED without prejudice as moot**.
2. The respondent's Motion to Dismiss is **GRANTED** as to the petitioner's request for the dismissal of his pending state charges for violations of the IADA because those claims are not exhausted and venue is not appropriate in this district.

3. The respondent's request for transfer is **DENIED** because the petitioner has failed to establish that the alleged detainer exists and for failure to exhaust.
4. This matter is hereby **ORDERED STRICKEN** from the active docket of this Court.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to any counsel of record and to mail a copy to the *pro se* petitioner.

**DATED:** September 30, 2008.



JOHN PRESTON BAILEY  
UNITED STATES DISTRICT JUDGE